



[FR-6365-N-01]

## **Section 8 Housing Assistance Payments Program-Annual Adjustment Factors, Fiscal Year 2023**

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, HUD.

**ACTION:** Notice of fiscal year (FY) 2023 annual adjustment factors (AAFs).

**SUMMARY:** The United States Housing Act of 1937 requires that certain assistance contracts signed by owners participating in the Department's Section 8 housing assistance payment programs provide annual adjustments to monthly rentals for units covered by the contracts. For owners subject to a Reserve for Replacement deposit requirement, HUD also requires that the amount of the required deposit be adjusted each year by the AAF. This notice announces FY 2023 AAFs for such adjustments. The factors are based on a formula using residential rent and utility cost changes from the most recent annual Bureau of Labor Statistics (BLS) Consumer Price Index (CPI) survey.

**DATES:** *Effective Date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ryan Jones, Director, Management and Operations Division, Office of Housing Voucher Programs, Office of Public and Indian Housing, 202-708-1380, for questions relating to the Section 8 Moderate Rehabilitation program (not the Section 8 Moderate Rehabilitation Single Room Occupancy program); Norman A. Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, 202-402-5015, for questions regarding the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program; Jennifer Lavorel, Director, OAMPO Program Administration Office, Office of Multifamily Housing, 202-402-2231, for questions relating to all other Section 8 programs; and Adam Bibler, Director, Program Parameters and Research

Division, Office of Policy Development and Research, 202-402-6057, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. The mailing address for these individuals is: Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Washington, DC 20410. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

#### **SUPPLEMENTARY INFORMATION:**

AAFs are applied at the anniversary of Housing Assistance Payment (HAP) contracts for which rents are to be adjusted using the AAF for those calendar months commencing after the effective date of this notice. The amount that an owner is required to deposit to the Reserve for Replacement account is also adjusted annually by the most recently published AAF, at the HAP contract anniversary. AAFs are distinct from, and do not apply to the same properties as, Operating Cost Adjustment Factors (OCAFs). OCAFs are annual factors used to adjust rents for project-based rental assistance contracts issued under Section 8 of the United States Housing Act of 1937 and renewed under section 515 or section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). HUD has published OCAFs for 2023 in the *Federal Register* at 87 FR 68513. The AAFs are also distinct from Renewal Funding Inflation Factors which help determine renewal funding for public housing agencies operating the Housing Choice Voucher program. A separate *Federal Register* notice, to be published following the passage of FY 2023 HUD appropriations, will contain the 2023 Renewal Funding Inflation Factors.

Tables showing AAFs will be available electronically from the HUD data information page at <http://www.huduser.gov/portal/datasets/aaf.html>.

## **I. Applying AAFs to Various Section 8 Programs**

AAFs established by this notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payment programs during the initial (i.e., pre-renewal) term of the HAP contract. There are two categories of Section 8 programs that use the AAFs:

Category 1: The Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation programs; and

Category 2: The Section 8 Loan Management Set-Aside (LMSA) and Property Disposition (PD) programs.

Each Section 8 program category uses the AAFs differently. The specific application of the AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

***Renewal Rents.*** AAFs are not used to determine renewal rents after expiration of the original Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are established in accordance with the statutory provision in MAHRA, as amended, under which the HAP is renewed. After renewal, annual rent adjustments will be provided in accordance with MAHRA.

***Budget-based Rents.*** AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD's option, either by applying the AAFs or by budget-based adjustments in accordance with 24 CFR 886.112(b) and 24 CFR 886.312(b). Budget-based adjustments are used for most Section 8/202 projects.

***Housing Choice Voucher and Project-Based Voucher Programs.*** AAFs are not used to adjust rents in the Tenant-Based or the Project-Based Voucher programs.

***Reserve for Replacement.*** The amount that an owner is required to deposit to the Reserve for Replacement account is adjusted annually by the AAF at the HAP contract anniversary.

## **II. Adjustment Procedures**

This section of the notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices H 2002-10 (Section 8 New Construction and Substantial Rehabilitation, Loan Management, and Property Disposition) and PIH 97-57 (Moderate Rehabilitation). HUD publishes two separate AAF Tables, Table 1 and Table 2. The difference between Table 1 and Table 2 is that each AAF in Table 2 is 0.01 less than the corresponding AAF in Table 1. Where an AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding AAF in Table 2 will also be set at 1.0, as required by statute. Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the two program categories:

### **Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs**

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program), the published AAF is applied to the pre-adjustment base rent.

For Category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published Fair Market Rent (FMR).

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial

difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (i.e., unless the contract rent is reduced by comparability):

- Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

### **Category 2: Section 8 Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)**

Category 2 programs are not currently subject to comparability. Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).

The applicable AAF is determined as follows:

- Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

### **Category 3: Reserve for Replacement**

The amount of the deposit to the Reserve for Replacement account must be increased annually using the most recently published “Regional AAF with Highest Utility Excluded” for the region in which the project is located. This adjustment must be made without regard to vacancies.

### **III. When to Use Reduced AAFs (From AAF Table 2)**

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by 0.01:

In Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0.

Legislative history for this statutory provision states that “the rationale [for lower AAFs for non-turnover units is] that operating costs are less if tenant turnover is less . . . .”<sup>1</sup> The Congressional Record also states the following:

Because the cost to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants in section 8 projects, HUD should expect to benefit from this ‘tenure discount.’ Turnover is lower in assisted properties than in the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated. 140 Cong. Rec. 8659, 8693 (1994).

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<sup>1</sup> See Department of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations for 1995, Hearings Before a Subcommittee of the Committee on Appropriations 103d Cong., 2d Sess. 591 (1994).

#### **IV. How to Find the AAF**

AAF Table 1 and Table 2 are posted on the HUD User website at <http://www.huduser.gov/portal/datasets/aaf.html>. There are two numeric columns in each AAF table. The first column is used to adjust contract rent for rental units where the highest cost utility is included in the contract rent, i.e., where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent, i.e., where the tenant pays for the highest cost utility.

The applicable AAF is selected as follows:

- Determine whether Table 1 or Table 2 is applicable. In Table 1 or Table 2, locate the AAF for the geographic area where the contract unit is located.
- Determine whether the highest cost utility is or is not included in contract rent for the contract unit.
- If highest cost utility is included, select the AAF from the column for “Highest Cost Utility Included.” If highest cost utility is not included, select the AAF from the column for “Highest Cost Utility Excluded.”

#### **V. Methodology**

AAFs are rent inflation factors. Two types of rent inflation factors are calculated for AAFs: gross rent factors and shelter rent factors. The gross rent factor accounts for inflation in the cost of both the rent of the residence and the utilities used by the unit; the shelter rent factor accounts for the inflation in the rent of the residence but does not reflect any change in the cost of utilities. The gross rent inflation factor is designated as “Highest Cost Utility Included” and the shelter rent inflation factor is designated as “Highest Cost Utility Excluded.”

AAFs are calculated using CPI data on “rent of primary residence” and “fuels and utilities.”<sup>2</sup> The CPI inflation index for rent of primary residence measures the inflation of all

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<sup>2</sup> CPI indexes “SEHA” and “SAH2” respectively.

surveyed units regardless of whether utilities are included in the rent of the unit or not. In other words, it measures the inflation of the “contract rent” which includes units with all utilities included in the rent, units with some utilities included in the rent, and units with no utilities included in the rent. In producing a gross rent inflation factor and a shelter rent inflation factor, HUD decomposes the contract rent CPI inflation factor into parts to represent the gross rent change and the shelter rent change. This is done by applying data from the Consumer Expenditure Survey (CEX) on the percentage of renters who pay for heat (a proxy for the percentage of renters who pay shelter rent) and, also, American Community Survey (ACS) data on the ratio of utilities to rents.<sup>3</sup> The BLS does not produce local inflation estimates for Puerto Rico. Therefore, HUD uses analogous estimates from the Puerto Rico Department of Labor and Human Resources (DTRH), Bureau of Statistics.

### **Survey Data Used to Produce AAFs**

The rent inflation factor and fuel and utilities inflation factor for each large metropolitan area and Census region are based, respectively, on changes in the CPI index for rent of primary residence and the CPI index for fuels and utilities from 2020 to 2021. The CEX data used to decompose the contract rent inflation factor into gross rent and shelter rent inflation factors come from a special tabulation of 2021 CEX survey data produced for HUD. The utility-to-rent ratio used to produce AAFs comes from 2020 ACS median rent and utility costs.

### **Geographic Areas**

Beginning with the data collection for 2018, BLS revised the sample for the CPI to be based on Core Based Statistical Areas (CBSAs). Previously, the sample was based on Metropolitan Statistical Areas (MSAs) as defined in 1998. In addition, the population required to be designated a Class A CPI city was increased from 1.5 million to 2.5 million. The following major metropolitan areas were eliminated under the new sample design: Pittsburgh PA,

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<sup>3</sup> The formulas used to produce these factors can be found in the Annual Adjustment Factors overview and in the FMR documentation at [www.HUDUSER.gov](http://www.HUDUSER.gov).



Cincinnati-Hamilton OH-KY-IN, Cleveland-Akron OH, Milwaukee-Racine WI, Kansas City MO-KS, and Portland-Salem OR-WA. With the change in metropolitan area definitions and the designation of Class A cities, the number of CPI cities declined from 28 metropolitan areas to 23 metropolitan areas (Riverside-San Bernardino has been split off from the Los Angeles survey area). This decline has resulted in fewer metropolitan component areas receiving local CPI adjustments. The 2018 CPI data with new metropolitan area definitions was first used with the FY 2020 AAFs. This change did not impact Puerto Rico which applies an island-wide CPI to all metropolitan and nonmetropolitan areas.

Each metropolitan area that uses a local CPI update factor is listed alphabetically in the tables and each HUD Metro FMR Area (HMFA) is listed alphabetically within its respective CBSA. Each AAF applies to a specific geographic area and to units of all bedroom sizes. AAFs are provided:

- For metropolitan areas at the MSA or HMFA level, and counties that are currently designated as nonmetropolitan, but are part of the metropolitan area defined in the local CPI survey.
- For the four Census regions (to be used for those metropolitan areas that are not covered by a CPI metropolitan survey, and non-metropolitan areas).

AAFs use the same Office of Management and Budget (OMB) metropolitan area definitions, as revised by HUD, that are used for the FY 2023 FMRs.

### **Area Definitions**

To make certain that they are using the correct AAFs, users should refer to the Area Definitions Table section at <http://www.huduser.gov/portal/datasets/aaf.html>. The Area Definitions Table lists CPI areas in alphabetical order by State, and the associated Census region is shown next to each State name. Areas with AAFs that are determined by local CPI surveys are listed first. All metropolitan areas with local CPI survey areas have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England States, the listings are for counties or parts of counties as defined by towns or

cities. The remaining counties use the CPI for the Census region and are not separately listed in the Area Definitions Table at <http://www.huduser.gov/portal/datasets/aaf.html>.

Puerto Rico uses its own AAFs calculated from the inflation estimates from the Puerto Rico Department of Labor and Human Resources (DTRH), Bureau of Statistics, and adjusted by the ACS. The Virgin Islands uses the South Region AAFs, and the Pacific Islands use the West Region AAFs.

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**[Billing Code 4210-67]**

[FR Doc. 2023-04813 Filed: 3/8/2023 8:45 am; Publication Date: 3/9/2023]